

PATENT COOPERATION TREATY



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INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

Applicant's or agent's file reference P17321-TPF		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/02766	International filing date (day/month/year) 17.03.2003	Priority date (day/month/year) 17.03.2003	
International Patent Classification (IPC) or both national classification and IPC H04L1/00			
Applicant TELEFONAKTIEBOLAGET LM ERICSSON (PUBL) et al			
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>			
<p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the opinion II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application 			
Date of submission of the demand 30.09.2004		Date of completion of this report 23.12.2004	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Ferrari, J Telephone No. +49 89 2399-8803 	

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/EP 03/02766**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-34 as originally filed

Claims, Numbers

1-23 as originally filed

Drawings, Sheets

1/7-7/7 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-23
	No: Claims	
Inventive step (IS)	Yes: Claims	1-23
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-23
	No: Claims	

2. Citations and explanations

see separate sheet

Ad. section V.:

Claims 1, 20, 22

The present application relates to a method for obtaining information about a transmission capability of a transmission link. The application also concerns an analysis entity and a computer program for carrying out the mentioned method.

In the light of the documents cited in the international search report, it is considered that the invention as claimed in independent claims 1, 20 and 22 respectively, meets the criteria mentioned in Article 33 (1) PCT in respect of novelty, inventive step and industrial applicability.

The fact of modulating a sending rate of data packets to be transmitted with a rate modulation, providing an analysis entity executing the steps of obtaining the sending rate from a sending entity, obtaining a receiving rate from a receiving entity, comparing the obtained sending rate and the obtained receiving rate to determine a relation of the obtained sending rate and the obtained receiving rate and to determine an appearance of the rate modulation of the sending rate in the obtained receiving rate, and obtaining the information about the transmission capability based on the determined relation and the determined appearance of the rate modulation, as claimed by the combination of features of claim 1, claim 20 or claim 22 respectively, is not to be taken or obviously derived from one of the documents cited either in the international search report or in the description of the present application in the sense of Rule 33(1) PCT.

US 2002/0068588 discloses a mobile communication system in which a plurality of base stations are connected to a communication network via a packet transfer node and a transmission rate of a forward link channel between a base station and a mobile station dynamically changes. Each of the base stations designates a packet transmission rate in accordance with the status of a radio channel. A radio terminal monitors a pilot signal from a base station during data communication and predicts the best radio sector for receiving the forward link data and the transmission rate of the radio sector on the basis of a Carrier-to-Interference ratio of the pilot signal. Both information are then notified to the base station.

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Claims 2-19, 21, 23

Dependent claims 2 to 19, 21 and 23 respectively, contain further details of the method, the analysis entity or of the computer program of claim 1, claim 20 or claim 22 respectively. As they are dependent on one of these claims, they also satisfy the requirements of Article 33 PCT.

The following irregularities in the application should be respected when entering the present application into the regional phase before the EPO:

Clarity deficiencies in the application:

Claims 21, 23

Dependent claims 21 and 23 do not meet the requirements of Article 6 PCT in that they refer twice to the same subject-matter, once with the reference to independent claim 20 or 22 respectively, and once with the direct reference to claim 1. The technical limitations are therefore not clear from these dependent claims contrary to the requirements of Article 6 PCT.

A clear formulation would be:

The analysis entity (AE) according to claim 20, wherein the analysis entity (AE) is adapted to perform all the steps of the method according to any of the claims 2 to 19.

The computer program according to claim 22 adapted to perform all the steps of the method according to any of the claims 2 to 19.

Formal deficiencies in the application:

The description does not mention any document showing related prior art as required by Rule 5.1(a)(ii) PCT.

The cited document US 2002/0068588, which is considered as being the most relevant prior art cited in the international search report, should therefore be acknowledged and briefly discussed in the opening part of the description.